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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/713,476	11/15/2000	Michael Ferraro	3801-4000US1	3612

27123 7590 02/27/2007  
MORGAN & FINNEGAN, L.L.P.  
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NEW YORK, NY 10281-2101

EXAMINER
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NGUYEN, PHU K

ART UNIT	PAPER NUMBER
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2628

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/27/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**Office Action Summary**

Application No.

09/713,476

Applicant(s)

FERRARO ET AL.

Examiner

Phu K. Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 20 November 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 2,3,5-44,47-59,73-77 and 91-158 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 2,3,5-44,47-58,75-77,91,94-106,113-125,130-145 and 152-158 is/are allowed.
- 6) ☒ Claim(s) 59,73,74,92,93,107-112,126-129 and 146-151 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

  
PHU K. NGUYEN  
PRIMARY EXAMINER  
GROUP 2300

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 11/17/06.

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 73-74, 126-129, 146-151 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

In claims 73 and 74, the claimed data structure are descriptive material per se and are not statutory because they are not capable of causing functional change in the computer. See *Warmerdam*, 33 F.3d at 1361, 31 USPQ2d at 1760 (claim to a data structure per se held nonstatutory).

In claims 126-129, the claimed transition table is descriptive material per se and are not statutory because they are not capable of causing functional change in the computer. See *Warmerdam*, 33 F.3d at 1361, 31 USPQ2d at 1760 (claim to a data structure per se held nonstatutory).

In claims 146-151, the claimed "program" claims the descriptive function of the instructions representing the steps of the method; i.e., the expressions or descriptions of the programs, are not physical "thing". They are neither computer components nor statutory processes, as they are not act being performed. See *Lowry* 32 F.3d at 1583-84, 32 USPQ2d at 1035.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 126-129 are rejected under 35 U.S.C. 102(b) as being anticipated by RODRIGUEZ et al. (5,999,207).

As per claim 126, Rodriguez teaches the claimed "transition table for use in producing an animation" comprising:

"a first set of entries which, when sequenced through, will effect a first change in a component of an animation from an initial state to a goal state"

(Rodriguez, the transition table to implement the states of figure 17); and

"a second set of entries which, when sequenced through, will effect a second change in the component from the initial state to a second goal state"

(Rodriguez, column 8, lines 15-59).

Claim 127 adds into claim 126 "at least one of a command, a program segment, data, control information, a direct reference to an image, an indirect reference to an image, vector description information, a location, a transformation, a tag, a magnification factor, a zoom factor, a function or a parameter" (Rodriguez, the commands to transfer between the states of figure 17).

Claim 128 adds into claim 126 "wherein the first set of entries are stored on a computer readable medium" (Rodriguez, RAMs 25 and 30).

Claim 129 adds into claim 126 "a third set of entries which, when sequenced through, will effect a default transition" (Rodriguez, Dial – Ring commands).

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Claims 59, 92-93, 107-112 rejected under 35 U.S.C. 102(e) as being anticipated by DeWitt et al. (6,535,215).

As per claim 59, DeWitt teaches the claimed "animation system" comprising:

"a character table" (DeWitt, Animation Library 103);

a gesture table (DeWitt, column 17, lines 23-46);

"a sequence table" (DeWitt, figure 6);

"a transition table, the transition table interrelating the character table, gesture table and sequence table such that, when state change information is received for a character represented in the character table, the state change information representing a character gesture, the state change information will cause a sequencing through entries in the transition table to occur and images identified in the sequence table by the entries to be composited into an image stream" (DeWitt, transition table 104; column 4, lines 5-31).

As per claim 92, DeWitt teaches the claimed "method of performing a character" comprising: "receiving data, resulting from manipulations of a performer, representing changes to be made to component elements of the character in a frame" (DeWitt, figure 9); and "generating a sequence of transition compositing commands based upon the manipulations" (DeWitt, column 7, lines 10-49).

Claim 93 adds into claim 92 "compositing images for the component elements into a sequence of animation frames, based upon the sequence of transition

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compositing commands, such that the changes called for by the manipulations of the performer are reflected in the sequence of animation frames as changes in the component elements of the character" (DeWitt, column 7, line 10 to column 8, line 59).

As per claim 107, DeWitt teaches the claimed "method of creating an animation from a set of actions" comprising:

"receiving a set of signals reflecting the set of actions" (DeWitt, input from external application 960; figure 9);

"outputting a set of compositing commands based upon the set of signals, the set of compositing commands being related to the set of signals by sequences of transition data items" (DeWitt, column 7, lines 10-49); and

"compositing first images into a first animation using the set of compositing commands and a first graphic database" (DeWitt, figure 9, and column 7, line 10 to column 8, line 59).

Claim 108 adds into claim 107 "storing the set of compositing commands" (DeWitt, animation library 103).

Claim 109 adds into claim 107 "compositing second images into a second animation using the set of compositing commands and a second graphic database" (DeWitt, figure 9, and column 7, line 10 to column 8, line 59).

Claim 110 adds into claim 107 “editing the stored set of compositing commands to create an edited set of compositing commands; and compositing second images into a second animation using the edited set of compositing commands and the first graphic database” (DeWitt, column 8, line 1 to column 10, line 12).

Claim 110 adds into claim 107 “editing the stored set of compositing commands to create an edited set of compositing commands; and compositing second images into a second animation using the edited set of compositing commands and a second graphic database” (DeWitt, column 8, line 1 to column 10, line 12)

As per claim 112, DeWitt teaches the claimed “method of creating a library of image elements for use in an animation system” comprising:

“capturing a series of images within a defined area from several angles” (DeWitt, figure 8);

“deconstructing elements from the images, the elements sequentially illustrating a change of a component from a first state to a second state” (DeWitt, column 6, line 40 to column 7, line 9); and

“storing at least some of the elements for use in a frames database” (DeWitt, the libraries 103, 106, 109, ...).

Due to new ground of the rejection, this action has been made NON-FINAL.


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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phu K. Nguyen whose telephone number is (571) 272 7645. The examiner can normally be reached on M-F 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Razavi can be reached on (571) 272 7664. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Phu K. Nguyen  
February 10, 2007

  
**PHU K. NGUYEN**  
**PRIMARY EXAMINER**  
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